#### DEPARTMENT OF THE ARMY

. SEPLY TO ATTENTION OF

800<sup>TH</sup> POLICE BATTALION CAMP BUCCA, IRAQ APO AE 09375

AFRD-JA

b(b)=; b(7)(c)-Z

16 July 2003

MEMORANDUM FOR LTC 220<sup>th</sup> Military Police Brigade

Headquarters and Headquarters Company,

SUBJECT: Appointment of Article 32 Investigating Officer

- 1. You are hereby appointed to investigate the enclosed preferred charges and specification concerning Specialist Timothy F. Canjar, HHC, 320th Military Police Battalion, Camp Bucca, Iraq, APO AE 09375.
- 2. You will conduct your investigation in accordance with Article 32a, UCMJ, and Rules for Courts-Martial 405. You will use DA Parn 27-17 as a procedural guide. Additionally, you shall investigate and make a recommendation as to any uncharged offenses, except minor offenses as defined by Part V, Manual for Courts-Martial, brought to your attention during the investigation unless counsel for both sides agree that they should not be investigated. This duty takes priority over all other duties.
- 3. A defense counsel will be detailed for the accused by Trial Defense Service. Each counsel plays an adversarial role in the proceedings. Avoid talking to the legal counsels, the commanders of the accused, and any prospective witnesses about the merits of the case outside of formal sessions where all parties are present.  $b(\ell)-2; \ b(\gamma)(\ell)-2$
- 4. Your legal advisor for this investigation will be MAJ CFLCC Staff Judge Advocate. You can contact him at 825-2352 for legal advice as soon as possible upon notification of this duty. Logistical support will be provided by the Criminal Law Division, CFLCC-OSJA. The hearing will be open.
- 5. The Article 32 should be set as soon as possible from the date you receive this memorandum. Any request to delay this investigation by the attorneys must be in the writing and must detail the basis for the request. You have the authority to grant reasonable requests by the attorney to delay the investigation. However, any request, which would delay this investigation any more than ten (10) calendar days, must be approved by myself.

AFRD-JA

SUBJECT: Appointment of Article 32 Investigating Officer

6. After the hearing is completed, the legal specialist assigned to the investigation shall complete a summarized transcript within 3 duty days. Upon receipt of the transcript, you have 3 duty days to submit the report of your investigation, with five copies, on DD Form 457 (Investigating Officer's Report) to the Criminal Law Division, QSJA. Your report will contain a detailed date and time chronology of your actions in conducting this investigation, to include all delays.

ANIS L. KARPINSKI

BG, USA Commanding

	(Of Charges Unde	INVES r Article 32,	TIGATING C UCMJ and	FFICER'S I R. C.M	REPORT 405, Manual for Courts-Martic	1 <i>l</i> )		
la. FF	10M: (Name of Investigating Officer-ast, First, MI)  b (b)-2 b (7)(c)-2	b. GRADE 0-5/LTC	c. ORGANIZATION 220th MILITARY POLICE BRIGADE APO AE 09366		· · · · · · · · · · · · · · · · · · ·	OF REPOI	it .	
2a. TO	2: (Name of Officer who directed the vestigation - Last, First, MI)	b. TITLE BRIGADE C	c. ORGANIZATION 8 COMMANDER 800th MILITARY POLICE BRIGADE				<u>-</u> -	
KARI	PINSKI, JANIS L.		b(G)-5, b(7)(G)-5					
	ME OF ACCUSED (Last, First, MI)	b. GRADE	c. SSN		d. ORGANIZATION 320th MP BATTALION	e. DATE (	F CHARG	ES
CAN.	JAR, TIMOTHY F.	14 JULY 03				03		
4. IN	ACCORDANCE WITH ARTICLE 32, UCMJ, AND R.C.M. 4 AVE INVESTIGATED THE CHARGES APPENDED HERETO	OS. MANUAL FOR C	ippropriate an	iswer)			YES	N
	E ACCUSED WAS REPRESENTED BY COUNSEL (If not, s						X	
6. CO	UNSEL WHO REPRESENTED THE ACCUSED WAS QUAL	FIED UNDER R.C.M.					$\hat{\mathbf{x}}$	
	IE OF DEFENSE COUNSEL (Last, First, MI)  - 5 (6) - 2; 5 (7)  NIZATION (If appropriate)	)(1)-2	b. GRADE 0-4/MAJ	NA	F ASSISTANT DEFENSE COUNSEL (If any)		b. GRAD	E
US A	RMY TRIAL DEFENSE SERVICE BERG FIELD OFFICE, REGION VI	II		c. ORGANIZ NA	ATION (If appropriate)			•
	ESS (If appropriate) AE 09139			d. ADORESS NA	(If appropriate)	<del></del>	·	
9. (To l	be signed by accused if accused waives counsel	. If accused does	not sien, inves	tioating off	icar will avalous in death in the	······································		
a. PLACE			2-8-4 11-10-2	b. DATE	· · · · · · · · · · · · · · · · · · ·			
I HAVE BEEN INFORMED OF MY RIGHT TO BE REPRESENTED IN THIS INVESTIGATION BY COUNSEL, INCLUDING MY RIGHT TO CIVILIAN OR MILITARY COUNSEL OF MY CHOICE IF REASONABLY AVAILABLE. I WAIVE MY RIGHT TO COUNSEL IN THIS INVESTIGATION.  c. SIGNATURE OF ACCUSED								
10. AT T	HE BEGINNING OF THE INVESTIGATION I INFORMED T	HE ACCUSED OF: (	Check appropri	ate answer)		<del></del> T	YES	-N
	CHARGE(S) UNDER INVESTIGATION IDENTITY OF THE ACCUSER						X	
	RIGHT AGAINST SELF-INCRIMINATION UNDER ARTICI	F 01			·		X	
d. THE	PURPOSE OF THE INVESTIGATION	LE 31					X	
	RIGHT TO BE PRESENT THROUGHOUT THE TAKING OF	F EVIDENCE					X	
f. THE	WITNESSES AND OTHER EVIDENCE KNOWN TO ME WI		PRESENT				<del>X</del>	
	RIGHT TO CROSS-EXAMINE WITNESSES						-	
i. THE	RIGHT TO HAVE AVAILABLE WITNESSES AND EVIDENT	CE PRESENTED					<del>\$</del>	
THE	RIGHT TO PRESENT ANYTHING IN DEFENSE, EXTENUA RIGHT TO MAKE A SWORN OR UNSWORN STATEMEN	TION, OR MITIGATI	ON				X	
	HE ACCUSED AND ACCUSED'S COUNSEL WERE PRESEN	THROUGHOUT T	HE PRESENTATION	OF EVIDENC	T. (Te.)		X	
	were dosent auring any part of the pro-	esentation of evid	lence, complete	b below.)			×	
b. STATE	THE CIRCUMSTANCES AND DESCRIBE THE PROCEEDI	NGS CONOUCTED II	N THE ABSENCE O	F ACCUSED (	OR COUNSEL .		~ 1	
NOT (Exc	E: If additional space is required for any item, enter the acample: "7c".) Securely attach any additional sheets to the	iditional material in to e form and add a nota	em 21 or on a sepa in the appropriate	rate sheet. Ide Item of the for	entify such material with the proper numerical and, if apm: "See additional sheet."	propriate, letter	ed heading	
	M 457, AUG 84		ON OF OCT CO IC					

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12a. THE FOLLOWING WITNESSES TESTIFIE		propriate answer)				
NAME (Last, First	, MI)	GRADE (If any)	ORGANIZATION/ADDRESS (Whichev	er is appropriate)	YES	NO
	b(6)-4 b(7)(9-	y E-6/SSG	223rd MP COMPANY	•	×	
	"	E-5/SGT	223rd MP COMPANY		×	
	, 1	SPC/E-4	223rd MP COMPANY		X	
	lv	SGT/E-5	223rd MP COMPANY		X	
		E-4/SPC	320th MP BATTALION		Х	
	4	E-4/SPC	320th MP BATTALION		X	
b. THE SUBSTANCE OF THE TESTIMONY OF THESE WITNESSES HAS BEEN REDUCED TO WRITING AND IS ATTACHED.						
13a. THE FOLLOWING STATEMENTS, DOC Examine Each.					^	
DESCRIPTION OF I	TEM same		LOCATION OF ORIGINAL (If not attached	0		
#1: SWORN STATEMENT, DTD 14 MAY 03	(1) 1 (-)(()	OSJA, CFLCC	, Camp Doha, KU		×	
#2: AIR,	-6(6)-1, 6(7)(9-1 14 MAY 03	OSJA, CFLCC	, Camp Doha, KU	•	×	
#3: SWORN STATEMENT, S DTD 14 MAY 03	5 (6) - 4. 5(7)(0)-4	OSJA, CFLCC	, Camp Doha, KU		×	
#4: SWORN STATEMENT, S DTD 14 MAY 03	Same	OSJA, CFLCC	, Camp Doha, KU		×	
#5: SWORN STATEMENT, S	Save	OSJA, CFLCC	, Camp Doha, KU		×	
#6: EPW MANIFEST, 744th N DTD 12 MAY 03		f .	, Camp Doha, KU		×	
b. EACH ITEM CONSIDERED, OR A COPY OR RECITAL OF THE SUBSTANCE OR NATURE THEREOF, IS ATTACHED						
14. THERE ARE GROUNDS TO BELIEVE THAT THE ACCUSED WAS NOT MENTALLY RESPONSIBLE FOR THE OFFENSE(S) OR NOT COMPETENT TO PARTICIPATE IN THE DEFENSE. (See R. C.M. 909, 916(k).)					×	
15. THE DEFENSE DID REQUEST OBJECTION	NS TO BE NOTED IN THIS REPO	RT (If Yes, specify i	in Item 21 below.)		X	
16. ALL ESSENTIAL WITNESSES WILL BE AVAILABLE IN THE EVENT OF TRIAL						
17. THE CHARGES AND SPECIFICATIONS ARE IN PROPER FORM  18. SEASONABLE CROUNDS EXIST TO DELICUS THAT THE ACQUISED COUNTY OF THE C						
					_X_	
19. I AM NOT AWARE OF ANY GROUNDS WHICH WOULD DISQUALIFY ME FROM ACTING AS INVESTIGATING OFFICER.  (See R. C.M. 405(d)(1).					X	
20. I RECOMMEND:					1	
a. TRIAL BY SUMMARY		SPECIAL	🖾 GENERAL COURT-MARTIA	L .		
b. OTHER (Specify in Item 21 belo				·		
21. newinths (include, as necessary, i	explanation for any delays	in the investigation,	and explanation for any "no" answers abo	ve.)		
SEE ATTACHED CONTINU	ATION SHEET					
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	,.					· }
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	<i>‡</i>					
•	·					
220 TYPED NAME OF INVESTIGATING OFFI		b. GRADE	c. ORGANIZATION			
5	6)-2; b(7)(6)-2	0-5/LTC	220th MILITARY POLICE BRIG APO AE 09366	ADE .		1
d. SIGNATURE OF INVESTIGAT				e. DATE		
				23 September	2003	- 1
						ليبي

# CONTINUATION SHEET, DD FORM 457, INVESTIGATING OFFICER'S REPORT Item 12a, Witnesses

1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	•		
b(6)-4; 1	b(7)(0)-Y		
	E-4/SPC	744 <sup>th</sup> MP BATTALION	YES
	E-7/SFC	744th MP BATTALION	YES
	E-5/SGT	744th MO BATTALION	YES
	E-6/SSG	314 <sup>th</sup> MP COMPANY	YES
	E-4/SPC	314 <sup>th</sup> MP COMPANY	YES
	E-4/SPC	314 <sup>th</sup> MP COMPANY	YES
	E-4/SPC	314th MP COMPANY	YES
	EPW	CAMP BUCCA, IZ	YES
	EPW	CAMP BUCCA, IZ	YES
	EPW	CAMP BUCCA, IZ	YES
	EPW	CAMP BUCCA, IZ	YES
	PW	CAMP BUCCA, IZ	YES
	EPW	CAMP BUCCA, IZ	YES
	EPW	CAMP BUCCA, IZ	YES
AND Committee	EPW	CAMP BUCCA, IZ	YES
		•	
b(6)-1; b(7)(c)-1	EPW	CAMP BUCCA, IZ	YES
	SA	CID, CAMP BUCCA, IZ	YES
	SA	CID, CAMP BUCCA, IZ	YES
	SA	CID, CAMP BUCCA, IZ	YES
	SA	CID, CAMP BUCCA, IZ	YES
	0-4/MAJ	800 <sup>th</sup> MP BRIGADE	YES
	E-4/SPC	320th MP BATTALION	YES
	E-4/SPC	320th MP BATTALION	YES
	E-4/SPC	223 <sup>™</sup> MP COMPANY	YES
6 (6) 4; 6(7) (c) -4			
By Telephonic Interview:	a.		
110	SA  -1; b(7)(c):	~1	YES
6(6)		1	

### CONTINUATION SHEET, DD FORM 457, INVESTIGATING OFFICER'S REPORT

	Item 13a, Witnesses (6)-4; b(7)6)-4		
	#7: SWORN STATEMENT, DTD 15 MAY 03	OSJA, CFLCC, CAMP DOHA, KU	YES
•	#8: SWORN STATEMENT, MSG DTD 16 MAY 08	(c)-5 OSJA, CFLCC, CAMP DOHA, KU	YES
	#9: AIR, SA DTD 14 MAY 03	OSJA, CFLCC, CAMP DOHA, KU	YES
•	#10: SWORN STATEMENT, SPC T. CANJAR DTD 15 MAY 03	OSJA, CFLCC, CAMP DOHA, KU	YES
	#11: SWORN STATEMENT, SSG DTD 16 MAY 03	OSJA, CFLCC, CAMP DOHA, KU	YES
	#12: SECOND SWORN STATEMENT, SPC T. CANJAR DTD 15 MAY 03	OSJA, CFLCC, CAMP DOHA, KU	YES

CONTINUATION SHEET, DD FORM 457, INVESTIGATING OFFICER'S REPORT SPC Timothy F. Canjar, 163-68-1050

Item 21, Remarks

- 1. Twelve pieces of evidence were submitted during the hearing. The evidence presented and examined consisted of sworn statements or Agent's Investigation Reports taken or written by CID Special Agents. A manifest from the 744th Military Police Battalion, dated 12 May 03, was also submitted during the hearing. In some cases, witnesses referred to their statements or reports to re-fresh their recollection of events under question. Thirty-one separate witnesses were heard. The witnesses were credible, although defense counsels attempted to refute the testimony of certain witnesses and highlight that previous testimony or statements were contradictory to the recorded testimony during this hearing. Based on the testimony of the witnesses and the evidence presented, I am able to make a recommendation with regard to further action involving the accused soldier.
- 2. With regard to SPC Canjar, I make the following recommendations to the charges and specifications alleged against him:
  - a. Charge 1: Violation of Article 92, Dereliction of Duty: I find that a preponderance of the evidence exists to validate the specification alleged against him. Testimony from SGT and SPC and EPW witnesses, clearly indicate that SPC Canjar had certain duties on the night in question, that he knew or reasonably should have known of those duties, and that he was derelict of those duties.
  - b. Charge II: Violation of Article 93, Cruelty and Maltreatment: I find that a preponderance of the evidence exists to validate Specifications 2 and 3 alleged against him. Evidence was not presented to sufficiently validate Specifications 1 and 4 alleged against him. The testimony of SGT and SPC indicate SPC Canjar's participation in the cruelty and maltreatment of EPW The testimony of SGT and SSG indicate his participation in the cruelty and maltreatment of EPW I felt that insufficient evidence existed to confirm his participation in the alleged cruelty and maltreatment of EPW Specification 4 was not specific with regard to the identify of the EPW. There was insufficient evidence to suggest he participated in the cruelty or mistreatment of any such unidentified EPW. Clearly EPWs

(same)

6(6)74

66-4 6(7)6-4

Same

Same

Same

any such unidentified EPW. Clearly EPWs and and were subject to SPC Canjar's or ders and his actions were cruel and represented maltreatment of both individuals.

- c. Charge III: Violation of Article 107, False Official Statements: I find that a preponderance of the evidence exists to validate the specification alleged against him based on the testimony of witnesses already identified. SPC Canjar signed two sworn statements indicating justifiable use of force against EPWs that evening. The testimony of witnesses, specifically SSG SGT SGT SGT and SPC indicate that his statements were false, that he knew them to be false at the time of making them, and that his statements were intended to deceive the investigators.
- d. Charge IV: Violation of Article 128, I find that a preponderance of the evidence exists to validate Specifications 1 and 4 alleged against him. Evidence was not presented to sufficiently validate Specifications 2 and 3 alleged against him. Again, based on the testimony of SSG SGT SGT SGT AGAINST SGT and SPC SPC SPC did bodily harm to these EPWs and the bodily harm was done with unlawful force.
- e. During the course of the hearing, testimony from SPC prompted counsel for the government to request that the investigation be broadened to include violations of Article 81, Conspiracy, and Article 134, Obstruction of Justice, against all four of the accused. I granted that request over the objection of all defense counsels. Aside from the testimony of SPC I do not feel that further, sufficient evidence was presented to validate these charges.
- f. I recommend that you proceed with a general court martial, charging the accused with Violation of Article 92, as specified, Violation of Article 93, Specifications 2 and 3, Violation of Article 107 and its specification, and Violation of Article 128, Specifications 1 and 4.

#### 3. Delays in proceedings:

- a. IO proposed original date of 28 July 03 for hearing. Defense counsels requested delay to 5 September 03 due to schedule conflicts. IO set date of 27 August 03 after consulting all counsels. Defense counsels acknowledged that the time would not count against the speedy trial requirement of the government.
- b. 28 August 03: Defense counsels requested additional time to prepare for EPW witnesses and CID Special Agent testimony. IO granted recess until 290800

problems accessing EPW witnesses. IO granted further delay until 291300 August 03.

- c. 29 August 03: Hearing recessed until arrival of additional witnesses on leave. Reconvene at Camp Doha, KU.
- d. 1 September 03: Hearing recessed until 021300 September 03 for additional witness. Further delayed until 021430 Sep 03 at request of defense counsels for additional time to interview witness.

#### 4. Defense and Government Objections:

- a. Defense: Defense counsels objected to introduction of sworn statement of SSG

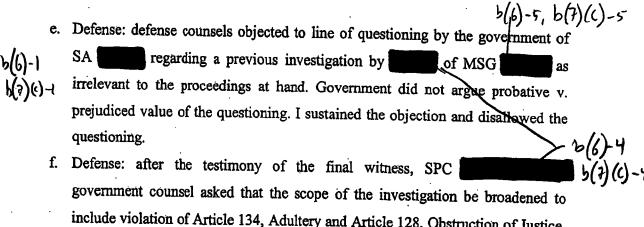
  ((3)-4) in addition to his sworn testimony at the hearing. SSG

  did not refer to his report during his testimony. IO sustained objection IAW RCM

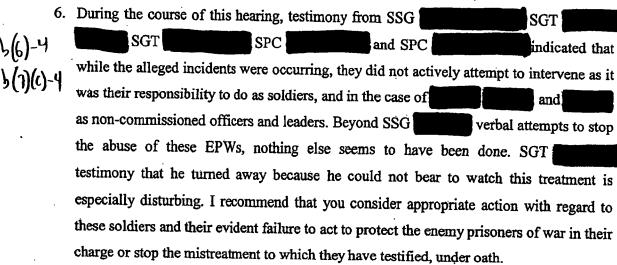
  405(4)(g)(B), allowing introduction of sworn statements over defense objection when the witness is not available.
  - b. Government: Government counsel objected to defense line of questioning, asking whether certain witnesses had been advised of their rights under Article 31, or were being investigated, or had been charged with violation of Article 32, UCMJ, Dereliction of Duty. IO allowed defense counsels to ask this question due to its relevance based on the testimony of the witnesses.
  - c. Defense: Government counsel requested to broaden the scope of the investigation to include violations of Article 81, UCMJ, 80, Conspiracy to Obstruct Justice, and Article 134, UCMJ, Obstruction of Justice, against all four of the accused, based on testimony of SPC Based on her testimony, IO allowed government to broaden the scope of the investigation to include these two charges.
  - d. Defense: Defense counsels perceived an allegation of impropriety in line of questioning by government counsel and asked that hearing area be cleared to further discuss the matter. IO cleared the courtroom of all spectators, including the media. I was advised by the PAO representation of a potential violation of the Freedom of Information Act in doing so, since the hearing was declared open. My legal advisor also suggested that other spectators carried the same weight as the media. Both were allowed back in, although the government counsel assured all parties that no such implied accusation was intended against any defense counsel and withdrew any further line of questioning along these lines.

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(some)



- f. Defense: after the testimony of the final witness, SPC government counsel asked that the scope of the investigation be broadened to include violation of Article 134, Adultery and Article 128, Obstruction of Justice. Government withdrew its request for the adultery charge. I did not allow the inclusion of this charge due to inadequate notice to the defense to prepare for the additional charges.
- 5. While EPW witnesses have agreed to be available for further testimony, their release might make it difficult to reach them once they have returned home.



		(	CHARGE SHEET	•		*** <u>**********************************</u>
<del></del>			. PERSONAL DATA			
1 NAME OF ACCI	JSED (Last, First, MI)	1	2. SSN	<u> </u>		
Canjar, Timothy			2. 95N		3. GRADE OR RANK	4. PAY GRADE SPC/E4
5. UNIT OR ORGA					6. CURRENT SERVIC	
Camp Bucca, Irac	on, 800th MP Brigade q APO AE 09375		<b>b</b> [6	6)-5; 6(4)6)5	a. INITIAL DATE 20000926	b. TERM 8 years
7. PAY PER MONT	Н		8. NATURE OF RE	STRAINT OF ACCUSED		o years
a. BASIC	b. SEA/FOREIGN DUTY	c. TOTAL		OTHAIR OF ACCUSED	S. DATE(S) INTOSED	
1,579.80	250.00	1,829.80	N/A			
		II. CHAR	GES AND SPECIFIC	ATIONS		
10. CHARGE:	VIOLATION OF THE	UCMJ, ARTICLE			<del></del>	
Specification: In duty, who knew of that he willfully it to Camp Bucca, I CHARGE II: VI Specification 1: duty, at or near C subject to his order. Specification 2: duty, at or near C specification 3: duty, at or near C orders, by twistin Specification 4: duty, at or near C kicking him in the	DLATION OF ARTICLE 9 that Specialist Timothy From this duties at or near Cambridge to safeguard from assurad, as it was his duty to describe to the safeguard from assurad, as it was his duty to describe the safeguard from assurad, as it was his duty to describe the safeguard from the SPC Timothy Frank Camp Bucca, Iraq, on or about the samp Bucca, Iraq, on or about the same same same same same same same sam	ank Canjar, U.S. ap Bucca, Iraq, of ault or abuse capo.  93 k Canjar, U.S. A out 12 May 2003 ground and drag k Canjar, U.S. A out 12 May 2003 s, by holding his domen.  Prank Canjar, U. Stank Ca	Army, HHC, 320th and	y 2003, was derelict in ers of war that he was  (b)-4;  Military Police Battal he ground with his pan in the maltreatment of accuraging other soldiers soldiers.  320th Military Police Battal soldiers soldiers.	the performance of escorting from Talil  (7)(c)—4  ion, Camp Bucca, Interpolate down around the pulled	aq, on active a person dhis ankles.  aq, on active a person dhis ankles.  aq, on active other U.S.  a, Iraq, on active ubject to his
		1 7(1)(1)	III. PREFERRAL			
110 NAME OF AC	(Last, First, MI)	//	b. GRADE O2	c. ORGANIZATION OF A	ACCUSER	
d. SIGNATURE OF	ACCUSER	<del></del>	L	<u> </u>	. DATE	
					13 JUL03	
under oati	VIT: Before me, the undersigned accuser this \( \frac{1}{2} \) day that he/she is a person subjective the matters set forth the accuse of Officer OY   MASSES   Grad	ct to the Uniform	Code of Military In	and signed the foregonestice and that he/she either either est of his/her knowledge  ONA CFLO  Organiza  Official Capaci	oing charges and specifier has personal knowled and belief.	cations lge of or
	Signature					
DD FORM 458,4	AUG 84	EDITION	OF OCT 69 IS OBS	OLETE		USAPPC V1.00

1./121/2)	/s\ 2		him/her and of the name(s) of
	(c)-2		oth MP Battalion
Typed Name of Immediate Commander		Organization of	Immediate Commander
1LT/O2			
Signature			
IV. RECEIPT BY SUMMARY COURT-	MARTIAL CONVEN	ING AUTHORI	Y
-			
The sworn charges were received at hours,	19	at	Designation of Command or
			- to granton to continue or
Officer Exercising Summary Court-Marrial Jurisdiction (See R.C.M. 403)	_	•	
	FOR THE 1-	****	
			•
Typed Name of Officer		Official Capa	city of Officer Signing
Grade			
Grade			•
Signature			
V. REFERRAL; SERV			
a. DESIGNATION OF COMMAND OF CONVENING AUTHORITY b. PLAC	E		c. DATÉ
Referred for trial to the court-martial convened by			
Referred for trial to the court-martial convened by,			
	bject to the following		
Referred for trial to the court-martial convened by,	bject to the following		
	bject to the following		
	bject to the following		
By	bject to the following	ng instructions:	2
	bject to the following	ng instructions:	
	bject to the following	ng instructions:	2
By	bject to the following	ng instructions:	2
	bject to the following	ng instructions:	2
	bject to the following	ng instructions:	2
	bject to the following	ng instructions:	2
	pject to the following	ng instructions:	2 City of Officer Signing
	pject to the following	Official Capa	city of Officer Signing bove named accused.
By	pject to the following	Official Capa	2 City of Officer Signing
	pject to the following	Official Capa	city of Officer Signing bove named accused.

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#### **CONTINUATION SHEET 2**

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6(-)(4)-4

same

6(6)-5

b(7)(9-5

#### CHARGE III: VIOLATION OF ARTICLE 107

Specification: In that Specialist Timothy Frank Canjar, U.S. Army, HHC, 320<sup>th</sup> Military Police Battalion, Camp Bucca, Iraq, on active duty, did, at or near Camp Bucca, Iraq, on or about 15 May 2003, with the intent to deceive, make to Special Agent United States Army Criminal Investigation Division Command, an official statement on a DA Form 2823 Sworn Statement, to wit: that he did not kick an Iraqi prisoner of war, that he did not see any other U.S. soldier kick and Iraqi prisoner of war, that he did not strike an Iraqi prisoner of war, that he did not see any U.S. soldiers kick an Iraqi prisoner of war in the groin, which was totally false, and was known by the said Specialist Timothy Frank Canjar to be so false.

#### CHARGE IV: VIOLATION OF ARTICLE 128

Specification 1: In that Specialist Timothy Frank Canjar, U.S. Army, HHC, 320<sup>th</sup> Military Police Battalion, Camp Bucca, Iraq, on active duty, did, at or near Camp Bucca, Iraq, on or about 12 May 2003, unlawfully twist the previously injured arm of an Iraqi prisoner of war with his hands, causing him to scream in pain.

Specification 2: In that Specialist Timothy Frank Canjar, U.S. Army, HHC, 320<sup>th</sup> Military Police Battalion, Camp Bucca, Iraq, on active duty, did, at or near Camp Bucca, Iraq, on or about 12 May 2003, unlawfully kick an Iraqi prisoner of war in the thigh as he walked towards the prisoner processing tent, causing him to cry out in pain.

Specification 3: In that Specialist Timothy Frank Canjar, U.S. Army, HHC, 320<sup>th</sup>
Military Police Battalion, Camp Bucca, Iraq, on active duty, did, at or near Camp Bucca,
Iraq, on or about 12 May 2003, unlawfully throw
an Iraqi prisoner of war, to the ground and drag him across the ground
with his pants around his ankles.

Specification 4: In that Specialist Timothy Frank Canjar, U.S. Army, HHC, 320<sup>th</sup>
Military Police Battalion, Camp Bucca, Iraq, on active duty, did, at or near Camp Bucca,
Iraq, on or about 12 May 2003, unlawfully aid and abet Master Sergeant
and Sergeant in unlawfully kicking
and Iraqi prisoner of war, in the groin, abdomen and head, by holding his
leg and encouraging Sergeant to kick him.



#### DEPARTMENT OF THE ARMY

## COALITION FORCES LAND COMPONENT COMMAND THIRD US ARMY CAMP DOHA, KUWAIT 09304

REPLY TO

AFRD-JA (27-10e)

8 November 2003

MEMORANDUM FOR Commanding General, Coalition Forces Land Component Command, APO AE 09304

SUBJECT: Advice on Disposition of Court-Martial Charges, SPC Timothy F. Canjar, 320<sup>th</sup> Military Police Battalion, Camp Bucca, Iraq

- 1. PURPOSE: To provide pretrial advice in accordance with the provisions of Article 34, Uniform Code of Military Justice (UCMJ) and Rule for Courts-Martial (RCM) 406.
- 2. ACCUSED: SPC Timothy F. Canjar, 320th Military Police Battalion, Camp Bucca, Iraq
- 3. PERSONAL DATA:
  - a. MOS: 95B10, Military Police;
  - b. Age: 21;
  - c. Marital Status: Single;
  - d. Education: High School;
  - e. Current Enlistment Expires: 25 September 2008;
  - f. BASD: 26 September 2000;
  - g. Previous Convictions: None;
  - h. Nonjudicial Punishment: None;
  - i. Pretrial Restraint: None.
- 4. CHARGES: Preferred 13 July 2003.

<u>CHG</u>	<u>Article</u>	Spec	Summarized Specification
I.	92	The	Dereliction of Duty
II.	93	1	Cruelty and Maltreatment
		2	Cruelty and Maltreatment
		3	Cruelty and Maltreatment
		4	Cruelty and Maltreatment

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III.	107	The	False Official Statement
IV.	128	1	Assault Consummated by a Battery
		2	Assault consummated by a Battery
		3	Assault consummated by a Battery
		4	Assault consummated by a Battery

5. ADDITIONAL CHARGES: Prefered on 27 September 2003

ADD CHG	<u>Article</u>	Spec	Summarized Specification
I.	134	The	Obstructing Justice
II.	81	The	Conspiracy to Obstruct Justice

- 6. LEGAL CONCLUSIONS: After reviewing the attached charges and their specifications and the allied documents, I have reached the following legal conclusions:
  - a. Each specification alleges an offense under the UCMJ.
  - b. The allegation in each specification is warranted by the evidence.
  - c. There is court-martial jurisdiction over the accused and the charged offenses.

#### 7. RECOMMENDATIONS:

- a. The accused's Company, Battalion, and Brigade Commanders recommend a General Court-Martial.
- b. The Article 32 Officer recommended trial by General Court-Martial.
- c. I recommend referral for trial by a General Court-Martial.
- 8. You may refer this case for trial by signing the attached memorandum.

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4 Encl

1. Charge Sheet

- 2. Additional Charges
- 3. Allied Documents
- 4. CMCO #6

